

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:04-CR-00222-RJC-CH

USA

v.

KIMBERLY FRANCENE BAKER

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ORDER

**THIS MATTER** comes before the Court on the defendant's pro se Motion for Reconsideration, (Doc. No. 151), of the Court's denial, (Doc. No. 150: Order), of her motion for a sentence reduction based on Amendment 794 to the United States Sentencing Guidelines, (Doc. No. 149).

The defendant relies on United States v. Carbajal, 717 F. App'x 234 (4th Cir. 2018), for her argument that she is entitled to relief under 18 U.S.C. § 3582(c)(2). However, that case was decided on direct appeal and resulted in a remand because the record was unclear whether the district court applied the amendment, which was applicable on the date of the original sentencing hearing. Id. at 235. Here, the defendant has still failed to show that the amendment is retroactive to cases decided before its effective date. Thus, she is not entitled to relief.

**IT IS, THEREFORE, ORDERED** that the defendant's Motion to Reconsider, (Doc. No. 151), is **DENIED**.

Signed: August 29, 2018



Robert J. Conrad, Jr.  
United States District Judge

